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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ORACLE USA, INC., a Colorado corporation;  
ORACLE AMERICA, INC., a Delaware  
corporation; and ORACLE INTERNATIONAL  
CORPORATION, a California corporation,

Plaintiffs,

v.

RIMINI STREET, INC., a Nevada corporation,  
and SETH RAVIN, an individual,

Defendants.

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Case No. 2:10-cv-00106-LRH-PAL

**DEFENDANTS RIMINI STREET,  
INC.'S AND SETH RAVIN'S REPLY  
IN SUPPORT OF THEIR  
CONDITIONAL CROSS-MOTION  
FOR RECONSIDERATION IN ANY  
NEW TRIAL**

Judge: Hon. Larry R. Hicks

1 Rimini filed its conditional cross-motion solely to preserve the issues identified therein for  
 2 reconsideration in the event of a new trial. Although Oracle has not moved for a new trial, the Court  
 3 retains the authority to order a new trial *sua sponte*. See Fed. R. Civ. P. 50(b)(2) (“In ruling on [a  
 4 motion made under Rule 50(b)], the court may: ... (2) order a new trial”); Fed. R. Civ. P. 59(d) (“No  
 5 later than 28 days after the entry of judgment, the court, on its own, may order a new trial for any  
 6 reason that would justify granting one on a party’s motion.”); *Murphy v. City of Long Beach*, 914  
 7 F.2d 183, 187 (9th Cir. 1990) (“The court’s control over a trial is illustrated by the court’s *sua sponte*  
 8 power to grant a new trial on grounds not alleged by a party”). If the Court were to order a new trial,  
 9 then Rimini respectfully requests that the Court also reconsider several rulings (which the course of  
 10 this trial showed to be erroneous and prejudicial) in order to avoid these errors on retrial. If, on the  
 11 other hand, the Court resolves the parties’ post-trial motions without ordering a new trial, then  
 12 Rimini’s motion will become moot.

13 Oracle argues that it should “not have had to spend a single dollar drafting an opposition to”  
 14 Rimini’s conditional cross-motion because it will likely become moot. Dkt. 955 at 1. Oracle fails to  
 15 mention, however, that Rimini *offered to stipulate* that Oracle would be required to respond to the  
 16 conditional cross-motion only if a new trial were ordered. See Dkt. 956-1 (“If Oracle does not wish  
 17 to prepare an opposition, Oracle could stipulate that the Court will reconsider all the issues Rimini  
 18 identifies in the event a new trial is ordered, and that Oracle will address the merits of Rimini’s  
 19 arguments at that point”). In light of that offer, Oracle did not have to spend a single dollar  
 20 responding to the conditional cross-motion. Oracle rejected the proposed stipulation, however, and  
 21 thus any time and expense it incurred in preparing its response is its own responsibility.

22 On the merits, Rimini maintains that the rulings identified in its conditional cross-motion  
 23 warrant reconsideration if a new trial is ordered. These rulings include: permitting Oracle to draw a  
 24 parallel between Rimini and TomorrowNow, permitting Oracle to argue (without any evidence) that  
 25 CedarCrestone was an infringing alternative, permitting Oracle to cast Rimini employees having  
 26 nothing to do with the case as dishonest, preventing Rimini from introducing evidence relating to  
 27 Rimini’s post-2011 operations, and preventing Mr. Ravin from gaining access to certain highly  
 28 confidential exhibits. Dkt. 916 at 2-3, 5. This improperly admitted (or, as to the post-2011 conduct,

1 improperly excluded) evidence prejudiced Rimini by allowing the jury to include in its damages  
 2 award perceived misconduct having nothing to do with the case, or alleged misconduct that had long  
 3 since stopped. Oracle also improperly presented an inflated damages figure, in part through its  
 4 belatedly supplemented expert report, and in part through Ms. Dean's improper, previously  
 5 withdrawn testimony. *Id.* at 3-4. The prejudice was compounded by the fact that Rimini was not  
 6 allowed to introduce any evidence on copyright misuse, which would have provided a complete  
 7 defense to copyright infringement liability or at minimum mitigated the misperceptions created by  
 8 the evidence improperly admitted or excluded at Oracle's behest.

9 The parties have briefed each of these issues in detail multiple times (*e.g.*, Dkts. 554, 561,  
 10 593, 625, 652, 695, 766, 767, 771, 773, 793, 799, 816, 838, 845), and Rimini incorporates those  
 11 arguments by reference here. If the Court orders a new trial *sua sponte*, Rimini respectfully requests  
 12 that the Court reconsider these extremely important issues, and permit the parties an opportunity to  
 13 brief the issues in further detail at that time.

14  
 15 DATED: January 8, 2016

GIBSON, DUNN & CRUTCHER LLP

16  
 17 By: s/ Blaine H. Evanson  
 18 Blaine H. Evanson

19 *Attorneys for Defendants*  
 20 *Rimini Street, Inc. and Seth Ravin*

**CERTIFICATE OF SERVICE**

I hereby certify that on January 8, 2016, I caused to be electronically filed the foregoing document with the clerk of the court for the U.S. District Court, District of Nevada, using the electronic case filing system. The electronic case filing system sent a “Notice of Electronic Filing” to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

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